San Diego Municipal Code

Land Development Code

Biology Guidelines

Printed on recycled paper

This information, or this document (or portions thereof), will be made available in alternative formats upon request.

BIOLOGY GUIDELINES AMENDMENTS

The following amendments have been incorporated into this August 2004 posting of this plan:

Amendment	Date Approved by Planning Commission	Resolution Number	Date Adopted by City Council	Resolution Number
Biology Guidelines adopted.			November 18,1997	R-289460
Biology Guidelines amended.			September 28, 1999	R-292249
Biology Guidelines amended.			June 6, 2000	R-293254

Table of Contents

List of Tables

List of Figures

FIGURES

List of Attachments

ATTACHMENTS

THIS PAGE INTENTIONALLY LEFT BLANK.

SECTION I: DEFINITIONS

These Guidelines have been formulated by the Planning and Development Review Department to aid in the implementation and interpretation of the Environmentally Sensitive Lands Regulations (ESL), San Diego Land Development Code, Chapter 14, Division 1, **Section 143.0101** et seq, and the Open Space Residential (OR-1-2) Zone, SDLDC, Chapter 13, Division 2, **Section 131.0201** et seq. **Section III** of these Guidelines, (Biological Impact Analysis and Mitigation Procedures), also serve as standards for the determination of impact and mitigation under the California Environmental Quality Act (CEQA) and the Coastal Act.

These guidelines are the baseline biological standards for processing Neighborhood Development Permits, Site Development Permits and Coastal Development Permits issued pursuant to the ESL. For impacts associated with steep hillsides, please refer to the Steep Hillside Guidelines for the Environmentally Sensitive Lands Regulations.

A. Sensitive Biological Resources

The ESL defines sensitive biological resources as those lands included within the Multiple Habitat Planning Area (MHPA) as identified in the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan (City of San Diego 1995), and other lands outside of the MHPA that contain wetlands; vegetation communities classifiable as Tier I, II, IIIA or IIIB; habitat for rare, endangered or threatened species; or narrow endemic species.

1. The Multiple Habitat Planning Area (MHPA) are those lands that have been included within the City of San Diego's MSCP Subarea Plan for habitat conservation. These areas have been determined to provide the necessary habitat quantity, quality and connectivity to support the future viability of San Diego's unique biodiversity and thus are considered to be a Sensitive Biological Resource. The City of San Diego's MHPA contains "hard-lines", with limited development permitted based on the development area allowance of the OR-1-2 zone in order to achieve an overall 90 percent preservation goal (see **Section II.B** for discussion of OR-1-2 zone).

   The boundaries of the MHPA are depicted on 1"=2000' foot scale maps and in many areas of the City on 1"=800' scale maps.

2. Wetlands. Many of the species included in the MSCP (i.e. Covered Species) are dependent on wetlands for habitat and foraging. The definition of wetlands in the ESL regulation is intended to differentiate uplands (terrestrial areas) from wetlands, and furthermore to differentiate naturally occurring wetland areas from those created by human activities. Except for areas created for the purposes of wetland habitat or resulting from human actions to create open waters or from the alteration of natural stream courses, it is not the intent of the City to regulate artificially created wetlands in historically non-wetland areas unless they have been delineated

as wetlands by the Army Corps of Engineers, and/or the California Department of Fish and Game. For the purposes of the ESL, artificially created lakes such as Lake Hodges, artificially channeled floodways such as the Carmel Valley Restoration and Enhancement Project (CVREP) and previously dredged tidal areas such as Mission Bay should be considered wetlands under the ESL regulations. The following provides guidance for defining wetlands regulated by the City of San Diego under the Land Development Code.

Naturally occurring wetland vegetation communities are typically characteristic of wetland areas. Examples of wetland vegetation communities include salt marsh, brackish marsh, freshwater marsh, riparian forest, oak riparian forest, riparian woodland, riparian scrub and vernal pools. Common to all wetland vegetation communities is the predominance of hydrophytic plant species (plants that are adapted for life in anaerobic soils). Many references are available to help identify and classify wetland vegetation communities; Holland (1986), Cowardin et al. (1979), Keeler-Wolf and Sawyer (1996), and Zedler (1987). The U.S. Army Corps of Engineers Wetland Delineation Manual (1987) provides technical information on hydrophytic species.

Problem areas can occur when delineating wetlands due to previous human activities or naturally occurring events. Areas lacking naturally occurring wetland vegetation communities are still considered wetlands if hydric soil or wetland hydrology is present and past human activities have occurred to remove the historic vegetation, or catastrophic or recurring natural events preclude the establishment of wetland vegetation. Examples include agricultural grading in floodways, dirt roads bisecting vernal pools, channelized streambeds, areas of scour within streambeds, and coastal mudflats and salt pannes that are unvegetated due to tidal duration. The U.S. Army Corps of Engineers Wetland Delineation Manual (1987) provides technical information on hydric soils and wetland hydrology.

Areas lacking wetland vegetation communities, hydric soils and wetland hydrology due to non-permitted filling of previously existing wetlands, will be considered a wetland under the ESL and regulated accordingly. The removal of the fill and restoration of the wetland may be required as a condition of project approval.

Areas that contain wetland vegetation, soils or hydrology created by human activities in historically non-wetland areas do not qualify as wetlands under this definition unless they have been delineated as wetlands by the Army Corps of Engineers, and/or the California Department of Fish and Game. Artificially created "wetlands" consist of the following: wetland vegetation growing in brow ditches and similar drainage structures outside of natural drainage courses, wastewater treatment ponds, stock watering, desiltation and retention basins, water ponding on landfill surfaces, road ruts created by vehicles and artificially irrigated areas which would revert to uplands if the irrigation ceased. Areas of historic wetlands can be assessed using historic aerial photographs, existing environmental reports (EIRs, biology surveys, etc.), and other collateral material such as soil surveys.

Some coastal wetlands, vernal pools and riparian areas have been previously mapped. The maps, labeled C-713 and C-740 are available to aid in the identification of wetlands. Additionally, the 1"=2000' scale MSCP vegetation maps may also be used as a general reference, as well as the U.S. Fish and Wildlife Service's (USFWS) National Wetlands Inventory maps. These maps, available for viewing at the Planning and Development Review Department, should not replace site-specific field mapping.

3. Vegetation Communities within the MSCP study area have been divided into four tiers of sensitivity (the first includes the most sensitive, the fourth the least) based on rarity and ecological importance.

   Tier I habitats include lands classified as southern foredunes, Torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, and oak woodlands. Tier II includes lands classified as coastal sage scrub and coastal sage scrub/chaparral. Tier IIIA includes lands classified as mixed chaparral and chamise chaparral. Tier IIIB includes lands classified as non-native grassland. Tier IV includes lands classified as disturbed, agriculture, and eucalyptus.

   Classifications should use the California Department of Fish and Game (CDFG) listing of community associations (Holland 1986), as a reference for classifying vegetation.

4. Listed Species. Habitats supporting plant or animal species which have been listed or proposed for listing by the federal or state government as rare, endangered, or threatened ("listed species"), are also considered sensitive biological resources under the ESL.

   [Note: Some listed species are considered adequately conserved under the MSCP (Covered Species), others are not (Listed Non-covered Species)].

5. Narrow Endemic Species**.** Species adopted by the City Council as narrow endemic species, identified below, are considered sensitive biological resources.

   [Note: Some of these narrow endemic species are also listed species]:

NARROW ENDEMIC SPECIES

Acanthomintha ilicifolia	San Diego thornmint
Agave shawii	Shaw's agave
Ambrosia pumila	San Diego ambrosia
Aphanisma blitoides	Aphanisma
Astragalus tener var. titi	Coastal dunes milk vetch
Baccharis vanessae	Encinitas baccharis
Dudleya blochmaniae ssp. brevifolia	Short-leave live-forever
Dudleya variegata	Variegated dudleya
Hemizonia conjugens	Otay tarplant
Opuntia parryi var. serpentina	Snake cholla
Orcuttia californica	Orcutt grass
Pogogyne abramsii	San Diego mesa mint
Pogogyne nudiuscula	Otay Mesa mint

6. Covered Species. Covered species are those species included in the Incidental Take Authorization issued to the City by the federal or state government as part of the City's MSCP Subarea Plan. The term 'non-covered species' is sometimes used to identify species not included in the Incidental Take Authorization. A list of these species is provided in **Appendix A**.

B. Wetland Buffers

A wetland buffer is an area or feature(s) surrounding an identified wetland that helps to protect the functions and values of the adjacent wetland by reducing physical disturbance from noise, activity and domestic animals and provides a transition zone where one habitat phases into another. The buffer will also protect other functions and values of wetland areas including absorption and slowing of flood waters for flood and erosion control, sediment filtration, water purification, ground water recharge, and the need for upland transitional habitat. Within the Coastal Overlay Zone, uses permitted within wetland buffers are specified in **Section 143.0130(e)** of the ESL

SECTION II: DEVELOPMENT REGULATIONS

Specific development regulations pertaining to sensitive biological resources exist in the Municipal Code in both the ESL (Chapter 14, Division 1, **Section 143.0141**) and the OR-1-2 zone (Chapter 13, Division 2, **Section 131.0230**). The following guidelines are provided to supplement these development regulation requirements.

A. Environmentally Sensitive Lands (ESL)

1. Wetlands and Listed Non-covered Species Habitat. Wetlands and Listed Non-covered Species are protected by federal and state regulations. (Listed non-covered species are those species listed as rare, threatened or endangered which are not covered by the Incidental Take Authorization issued to the City by the federal or state governments under the MSCP Plan. A list of species covered by the MSCP is provided in Appendix A.)

   It is recognized that some projects will be required to obtain federal and state permits. Applicants will be required to confer with the appropriate federal and state agencies prior to the public hearing for the development proposal, and incorporate any federal or state requirements into their project design.

   The discretionary permit, and any associated subdivision map, will be conditioned to restrict the issuance of any grading permit until all necessary federal and state permits have been obtained and a copy of the permit, authorization letter or other official mode of communication from the Resource Agencies is transmitted to the City of San Diego. City public projects do not need a grading permit, however these projects will still be required to obtain all necessary federal and state permits prior to any clearing or grading of the project site.

   Under the ESL, impacts to wetlands should be avoided. For vernal pools, avoidance of a sufficient amount of the watershed necessary for the continuing viability of the ponding area is also required. Unavoidable impacts should be minimized to the maximum extent practicable. Whether or not an impact is unavoidable will be determined on a case-by-case basis. Examples of unavoidable impacts include those necessary to allow reasonable use of a parcel entirely constrained by wetlands, roads where the only access to the developable portion of the site results in impacts to wetlands, and essential public facilities (essential roads, sewer, water lines, etc.) where no feasible alternative exists. Unavoidable impacts will need to be mitigated in accordance with **Section III.B.1.a** of these guidelines. However, within the Coastal Overlay Zone, both within and outside the MHPA, impacts to wetlands shall be avoided and only those uses identified in **Section 143.0130(d)** of the ESL shall be permitted which are limited to aquaculture, nature study projects or similar resource dependent uses, wetland restoration projects and incidental public service projects. Such impacts to wetlands shall only occur if they are unavoidable, the least environmentally-damaging feasible alternative, and adequate mitigation is provided.

A wetland buffer shall be maintained around all wetlands as appropriate to protect the functions and values of the wetland. Section 320.4(b)(2) of the U.S. Army Corps of Engineers General Regulatory Policies (33 CFR 320-330) list criteria for consideration when evaluating wetland functions and values. These include wildlife habitat (spawning, nesting, rearing, and foraging), food chain productivity, water quality, ground water recharge, and areas for the protection from storm and floodwaters. Wetland buffers should be provided at a minimum 100 feet wide adjacent to all identified wetlands. The width of the buffer may be either increased or decreased as determined on a case-by-case basis, in consultation with the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the Army Corps of Engineers, taking into consideration the type and size of development, the sensitivity of the wetland resources to detrimental edge effects, natural feature such as topography, the functions and values of the wetland and the need for upland transitional habitat. Examples of functional buffers include areas of native or non-invasive landscaping, rock/boulder barriers, berms, walls, fencing and similar features that reduce indirect impacts on the wetland. Measures to reduce adverse lighting and noise should also be addressed where appropriate. Section 1.4.3. Land Use Adjacency Guidelines, of the City's MSCP Subarea Plan, can be used to help determine appropriate measures for wetland buffers. A 100-foot minimum buffer area shall not be reduced when it serves the functions and values of slowing and absorbing flood waters for flood and erosion control, sediment filtration, water purification, and ground water recharge.

2. Development in the MHPA. For parcels outside of the Coastal Overlay Zone and wholly or partially within the MHPA, development is limited to the development area allowed by the OR-1-2 zone, as described below (see **Section II.B**). Zone 2 brush management is considered "impact neutral" and is not considered part of the proposed development area. The development area must be located on the least sensitive portions of the site. The following list, in order of increasing sensitivity, is provided as a guideline for assessing the least sensitive portion of the site. Projects should be designed to avoid impacts to covered species where feasible. *This list should be used in combination with existing site-specific biological information, such as potential edge-effects from existing and proposed development, preserve configuration, habitat quality, wildlife movement, and topography.*

    a. Areas devoid of vegetation, including previously graded areas and agricultural fields.

    b. Areas of non-native vegetation, disturbed habitats and eucalyptus woodlands.

    c. Areas of chamise or mixed chaparral, and non-native grasslands.

    d. Areas containing coastal scrub communities.

    e. All other upland communities.

    f. Occupied habitat of listed species, narrow endemic species, *Muilla clevelandii* (San Diego goldenstar), and all wetlands.

g. All areas necessary to maintain the viability of wildlife corridors (e.g. linear areas of the MHPA < 1000' wide).

Within each of the previous categories (a-g), areas containing steep hillsides will be considered more sensitive than those areas without steep hillsides.

Proposed development must be sited on the least sensitive areas and may only encroach into more sensitive areas in order to achieve the allowable development area. Within the Coastal Overlay Zone, specific discretionary encroachment limitations into steep hillsides containing sensitive biological resources are established in **Section 143.0142(a)(4)** of the ESL which shall supercede the allowable development area permitted pursuant to the OR-1-2 zone.

In addition to the previous siting requirements, any development inside the MHPA which identifies the occurrence of the following species must include an impact avoidance area as follows:

300 feet from any nesting site of Cooper's hawk (*Accipiter cooperii).*
1,500 feet from known locations of the southern pond turtle (*Clemmys marmorata pallida*).
900 feet from any nesting sites of northern harriers (*Circus cyaneus*)
4000 feet from any nesting sites of golden eagles (*Aquila chrysaetos*).
300 feet from any occupied burrow of burrowing owls (*Speotyto cunicularia hypugaea*).

These conditions are requirements of the Incidental Take Authorization in order to consider these species adequately conserved.

3. Development Outside of the MHPA. For parcels outside of the Coastal Overlay Zone and the MHPA, there is no limit on encroachment into sensitive biological resources, with the exception of wetlands, and listed non-covered species habitat (which are regulated by federal and state agencies and narrow endemic species as described below). However, impacts to sensitive biological resources must be assessed, and mitigation, where necessary, must be provided in conformance with Section III of these guidelines. Within the Coastal Overlay Zone, specific encroachment limitations into steep hillsides containing sensitive biological resources, and permitted uses within wetlands are established in **Section 143.0142(a)** and **Section 143.0130(d)** respectively, which, in case of conflict, shall supercede other regulations of the ESL.

[Note: Encroachment into areas outside of the MHPA, that are designed and zoned as open space, would be limited to the encroachment allowed by the underlying zone].

Outside the MHPA, projects must incorporate additional measures for the protection of narrow endemics. These measures can include management (e.g. fencing, signage), enhancement (e.g. removal of exotic species), restoration (e.g. expansion of existing populations) and/or transplantation into areas of protected open space. The appropriate measure(s) should be determined on a case-by case basis depending on the autecology of the species and the size, type and location of the proposed development.

4. Restrictions on Grading. All clearing, grubbing or grading (inside and outside the MHPA) will be restricted during the breeding season where development may impact the following species:

Western snowy plover (March 1 - September 15)
southwestern flycatcher (May 1 - August 30)
least tern (April 1 - September 15)
cactus wren (February 15 - August 15)
least bell's vireo (March 15 - September 15)
tricolored black bird (March 1 - August 1)
California gnatcatcher (March 1 - August 15 inside MHPA only. No restrictions outside MHPA)

B. Open Space Residential Zone (OR-1-2)

The OR-1-2 Zone provides for low-density residential, agricultural and passive open space uses. Every parcel zoned OR-1-2 has a development area as follows:

1. Development Area. The allowable development area of a site (premise) within the OR-1-2 zone includes all portions of the site, both developed and undeveloped, that occur outside of the MHPA. If this area is less than 25 percent of the total size of the site, then the development area would also include the amount of encroachment into the MHPA necessary to achieve development on 25 percent of the site (see **Figure 1**). The location of any allowable development into the MHPA would be determined by the ESL, as outlined above (**Section II.A.2**). No encroachment into the MHPA beyond the development area is allowed. All areas outside of the development area (remainder area) would be left in a natural undeveloped condition, except for those passive uses permitted by the OR-1-2 zone. At the time of development, a covenant may be recorded or conservation easement granted on property not dedicated to the City (see **Section III.B.2**).

Premises less than four acres in size that are partially or wholly in the MHPA would be allowed a development area of 1 acre in areas where the MHPA is of at least 1000 feet in width. The measurement of the MHPA width should be as follows: a straight line drawn through any portion of the premises should be a minimum of 1000 feet from the edges of the MHPA.

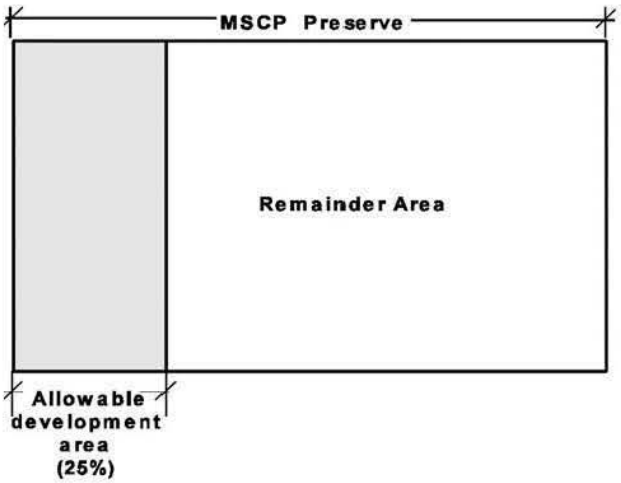
Up to an additional 5 percent development area inside the MHPA is permitted in order to accommodate essential public facilities, as identified in an adopted Land Use Plan (e.g. Community Plan, Specific Plan). Essential public facilities include identified circulation element roads, major water and sewer lines, publicly owned schools, parks, libraries and police and fire facilities. Roads, water and sewer lines that service a proposed project, and are not identified on the existing Land Use Plan, previously adopted by City Council, do not qualify for the additional 5 percent development area. The additional 5 percent development area will require mitigation pursuant to **Section III**.

All areas of grading, including cut and fill slopes (even if proposed for revegetation), Zone 1 of brush management, and any temporary staging areas should be considered part of the development area. Zone 2 of brush management may occur outside of the development area. Temporary disruptions of habitat and temporary staging areas that do not alter landform and that will be revegetated are generally not considered to be permanent habitat loss. Staff will work with the applicant to ensure that appropriate revegetation and restoration will be completed as part of the development process.

2. Development Area within the Coastal Overlay Zone. There are specific and discretionary encroachment limitations into steep hillsides containing sensitive biological resources established in Section 143.0142(a)(4) of the ESL. These restrictions are designed to assure that development onto steep hillsides containing sensitive biological resources is minimized. Additionally, development within wetlands shall be avoided to the maximum extent possible. In the event impacts to wetlands are unavoidable, only uses identified in Section 143.0130(d) which include, aquaculture, wetlands-related scientific research and educational uses, wetland restoration projects and incidental public service projects shall be permitted within wetlands. These uses are only permitted where it has been demonstrated there is no less environmentally damaging feasible alternative and mitigation has been provided. In case of conflict with the OR-1-2 zone and/or other regulations, these regulations shall supercede and apply.

   *[Note: The Development Regulations of the OR-1-2 Zone apply to all property within the MHPA. In some cases, parcels may be zoned other than OR-1-2, but would still be subject to the OR-1-2 development area regulations pursuant to the ESL. (**Sec. 143.0141.(d)**)]*

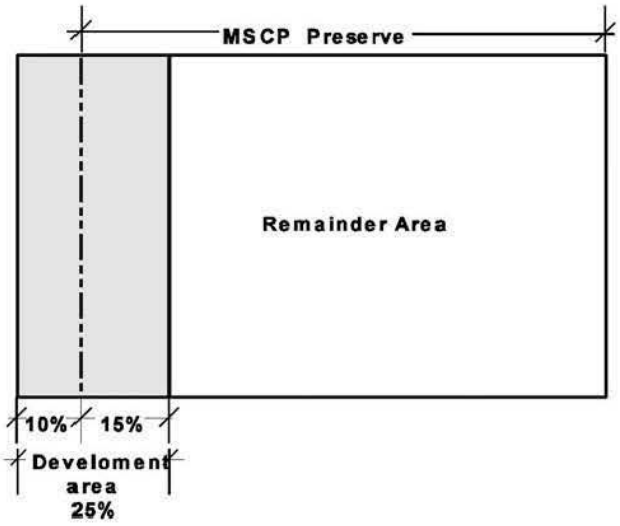
FIGURE 1
OR-1-2 ZONE DEVELOPMENT AREA
(OUTSIDE THE COASTAL OVERLAY ZONE) EXAMPLES



EXAMPLE 1:

Parcels wholly within the MSCP Preserve

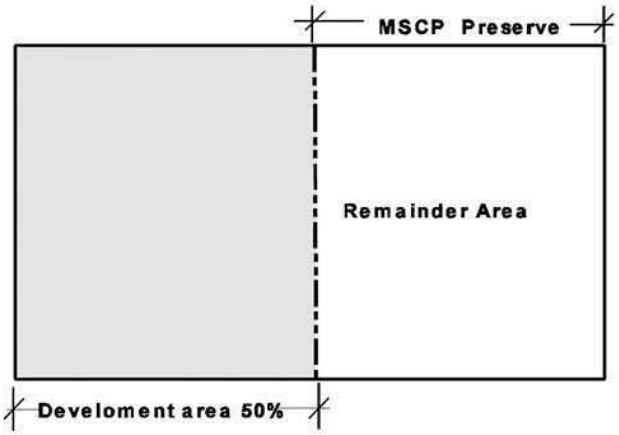
- Development area : 25%
- Encroachment into MSCP Preserve: 25%



EXAMPLE 2:

Parcels straddling the MSCP Preserve (less than 25% outside Preserve)

- Development area : 25%
- Encroachment into MSCP Preserve: 15%



EXAMPLE 3:

Parcels straddling the MSCP Preserve (more than 25% outside Preserve)

- Development area : 50%
- Encroachment into MSCP Preserve: 0%

SECTION III: BIOLOGICAL IMPACT ANALYSIS AND MITIGATION PROCEDURES

Mitigation is the process of reducing significant impacts to below a level of significance. The process of identifying biological mitigation under the ESL and CEQA consists of two parts;

- The identification of significant biological impacts, and
- The identification of the corresponding mitigation requirements to reduce the impacts to below a level of significance.

The following procedures are to be used for identifying and mitigating impacts to sensitive biological resources.

These guidelines are provided to establish citywide consistency and equity among projects. Diversion from these guidelines may have significant effects on the successful implementation of the MSCP, and thus, a possible significant effect on regional biodiversity conservation. Therefore, any significant proposed deviation would require a site-specific analysis in the Biological Survey Report to identify what effects, if any, it would have on the regional MSCP. The City Manager or designee will be the final authority to determine the adequacy of any mitigation that is recommended to the City decision-maker.

A. Identification of Impacts

1. Biological Survey Report. A biological survey report is required for all proposed development projects which are subject to the ESL regulations, and/or where the CEQA review has determined that there may be a significant impact on other biological resources considered sensitive under CEQA. **Table 1** outlines the survey requirements for various biological resources inside and outside the MHPA. The biological survey conducted as part of the MSCP may be used where the applicant and the City agree that the MSCP data adequately reflects the habitats and species found on the site, or the applicant may prepare a survey, according to the City of San Diego's Biological Survey Guidelines (City of San Diego 1978 and 1994a), for purposes of refining and/or confirming the regional MSCP biological data (i.e. vegetation and sensitive species maps). The Biological Survey Report must identify and map biological resources present on the site, including any portions of the site identified as part of the MHPA and any species considered sensitive pursuant to CEQA (see **Table 1 - Summary of Biological Survey Requirements**). Each vegetation community type should be categorized into either wetlands or one of four upland Habitat Tiers. City staff will confirm the adequacy of all maps during the CEQA environmental review process.

   The location and extent of each resource must be clearly identified on a map of an appropriate scale (same scale as development drawings), on which the acreage of each vegetation community must be provided. Individual sensitive species must be

depicted on the map and territories identified, where they have been determined. It is expected that the mapping scale will vary with size and type of project proposed.

The minimum mapping units should be clearly identified in the text of the report, and should be based on the mapping scale and the vegetation community. A minimum mapping unit for uplands of approximately 1/4 acre is generally considered acceptable for the 1"=200' scale.

TABLE 1
SUMMARY OF BIOLOGICAL SURVEY REQUIREMENTS

RESOURCE	SURVEY REQUIREMENTS	
	Inside MHPA	**Outside MHPA**
Vegetation		
• Uplands	Confirm/Revise MSCP mapping.	Confirm/Revise MSCP mapping.
• Wetlands	Delineate wetlands per City definition.	Delineate wetlands per City definition.
Covered spp[1]		
• Listed spp (e.g. gnatcatcher)	Focused survey per protocol.	Per MSCP conditions of coverage[2].
• Narrow endemic (e.g. S.D. Thornmint)	Focused survey per protocol.	Focused survey per protocol.
• Other (e.g. S.D. horned lizard)	Survey as necessary to comply with sitting requirements as outlined in **Section II.A.2** of these Guidelines.	Per MSCP conditions of coverage[2].
Non-Covered spp[1]		
• Listed spp (e.g. pacific pocket mouse)	Focused survey per protocol.	Focused survey per protocol.
• "Other Sensitive Species[3]) (e.g. little mouse tails)	Case-by-case determination depending on the spp.	Case-by-case determination depending on the spp.

Notes:
1. Based upon the MSCP mapping, site specific surveys, the NDDB records, previous EIRs and biological surveys, and/or discussion with the wildlife agencies, the potential for listed species, narrow endemics and CEQA sensitive species will be determined. Where there is a reasonable likeihood that one of these species exists, surveys will follow the above requirements.
2. Survey as necessary to conform with Appendix A of the City of San Diego MSCP Subarea Plan (March 1997).
3. "Other Sensitive Species" Those other species that are not listed by federal and/or state agencies and/or not covered by the MSCP and to which any impacts may be considered significant under CEQA.

2. Impact Analysis. The Biological Survey Report must identify all potential impacts from the development (both on-site impacts and off-site impacts such as roads, water and sewer lines) to sensitive biological resources and to other significant biological resources as determined by the CEQA process (i.e. sensitive, non-covered species). The report should evaluate the significance of these impacts. Impact assessments need to include analysis of direct impacts (e.g. grading, Zone 1 brush management), indirect impacts (e.g. lighting, noise) and cumulative impacts. The *City of San Diego's Significance Determination Guidelines under the California Environmental Quality Act* (City of San Diego 1994b) should be used as a reference. Mitigation for direct impacts will be assessed in accordance with **Tables 2** and **3**. Cumulative impacts for covered species have been addressed under the MSCP Plan and may be referenced. Zone 2 brush management is considered impact neutral (not considered an impact and not considered acceptable as a mitigation area). Indirect impacts to covered species could be mitigated by conformance to Section 1.4.3, Land Use Adjacency Guidelines, and implementing Section 1.5, Preserve Management Recommendations, of the City's MSCP Subarea Plan.

   The proposed project must be superimposed onto a map with the biological resources. The area covered by each biological resource, including the boundaries of the MHPA, if applicable, and the proposed area of impact to each resource by the proposed development must be presented in both a graphic and tabular form in the Biological Survey Report.

B. Identification of the Mitigation Program

The Biological Survey Report will provide a program that identifies a plan of action to reduce significant impacts to below a level of significance. The Mitigation Program will consist of three required elements: 1) Mitigation Element, 2) Protection and Notice Element and 3) Management Element. Each of these elements is further described below. This mitigation program must be incorporated in the permit conditions and/or subdivision map, the construction specifications for public projects, and shown on the constructions plans as appropriate.

The Biological Survey Report should also provide evidence that the nature and extent of the mitigation proposed is reasonably related (nexus) and proportional to the adverse biological impacts of the proposed development.

1. Mitigation Element. Mitigation must be determined on a case-by-case basis. Mitigation refers to actions to help sustain the viability and persistence of biological resources, as exemplified below. Mitigation will consist of actions that either compensate for impacts by replacing or providing substitute habitats, or rectify the impact by restoring the affected habitats. The requirements of the mitigation will be based on the type and location of the impacted habitat, and additionally for uplands,

on the location of the mitigation site. The Mitigation Element will consist of a discussion of the amount (i.e. quantity) and the type (i.e. method) of mitigation.

The following guidelines are provided to achieve consistency and equity among projects. Mitigation for specific projects may differ depending on site-specific conditions as supported by the project-level analysis.

a. Mitigation for Wetlands Impacts. The ESL regulations require that impacts to wetlands be avoided. Unavoidable impacts should be minimized to the maximum extent practicable, and mitigated as follows:

   As part of the project-specific environmental review pursuant to CEQA, all unavoidable wetlands impacts (both temporary and permanent) will need to be analyzed and mitigation will be required in accordance with **Table 2**; mitigation should be based on the impacted type of wetland habitat. Mitigation should prevent any net loss of wetland functions and values of the impacted wetland.

   The following provides an operational definition of the four types of activities that constitute wetland mitigation under the ESL regulations:

   Wetland creation is an activity that results in the formation of new wetlands in an upland area. An example is excavation of uplands adjacent to existing wetlands and the establishment of native wetland vegetation.

   Wetland restoration is an activity that re-establishes the habitat functions of a former wetland. An example is the excavation of agricultural fill from historic wetlands and the re-establishment of native wetland vegetation.

   Wetland enhancement is an activity that improves the self-sustaining habitat functions of an existing wetland. An example is removal of exotic species from existing riparian habitat.

   Wetland enhancement and wetland acquisition focus on the preservation or the improvement of existing wetland habitat and function, and do not result in an increase in wetland area; therefore, a net loss of wetland may result. As such, acquisition and/or enhancement of existing wetlands may be considered as partial mitigation only, for any balance of the remaining mitigation requirement after restoration or creation if wetland acreage is provided at a minimum of a 1:1 ratio. For permanent wetland impacts that are unavoidable and minimized to the maximum extent feasible, mitigation shall consist of creation of new, in-kind habitat to the fullest extent possible and at the appropriate ratios. In addition, unavoidable impacts to wetlands located within the Coastal Overlay Zone shall be mitigated on-site, if feasible. If on-site mitigation in not feasible, then mitigation shall occur within the same watershed. All mitigation for unavoidable wetland impacts within the Coastal Overlay Zone, shall occur within the Coastal Overlay Zone.

For example, satisfaction of the mitigation requirement may be considered for a 3:1 mitigation ratio, with two parts consisting of acquisition and/or enhancement of existing acres, and one part restoration or creation.

Restoration of illegally filled historic wetland areas will not be considered for mitigation, and may result in code enforcement actions and/or may require restoration as a condition of project approval. All restoration proposals should evaluate the reason for the historic wetland loss (e.g. placement of fill, changes in upstream or groundwater hydrology), the approximate date of the loss, and to the maximum extent possible, provide a determination as to whether the historic loss was legally conducted based upon the regulatory requirements at the time of the loss and the property ownership at the time of the loss.

The mitigation ratios, set forth in **Table 2**, in combination with the requirements for no-net-loss of functions and values and in-kind mitigation, are adequate to achieve the conservation goals of the City's MSCP Subarea Plan for wetland habitats and the covered species which utilize those habitats.

Wetland mitigation required as part of any federal (404) or state (1601/1603) wetland permit will supersede and will not be in addition to any mitigation identified in the CEQA document for those wetland areas covered under any federal or state wetland permit.

Wetland habitat outside the jurisdiction of the federal and state permits will be mitigated in accordance with the CEQA document.

TABLE 2
WETLAND MITIGATION RATIOS

HABITAT TYPE	MITIGATION RATIO
Coastal Wetlands	
salt marsh	4:1
salt panne	4:1
Riparian Habitats	
oak riparian forest	3:1
riparian forest	3:1
riparian woodland	3:1
riparian scrub	2:1
riparian scrub in the Coastal Overlay Zone	3:1
Freshwater Marsh	2:1
Freshwater Marsh in the Coastal Overlay Zone	4:1
Natural Flood Channel	2:1
Disturbed Wetland	2:1
Vernal Pools	2:1 to 4:1
Marine Habitats	2:1
Eelgrass Beds	2:1

Notes: Any impacts to wetlands must be mitigated "in-kind" and achieve a "no-net loss" of wetland function and values. Mitigation for vernal pools can range from 2:1 when no endangered are present, up to 4:1 when endangered species with very limited distributions (e.g. *Pogogyne abramsii*) are present.

b. Mitigation for Upland Impacts. The City of San Diego has developed a MSCP Subarea Plan which identifies the conservation and management of a citywide system of interconnected open space. The habitat based level of protection afforded by the implementation of the MHPA is intended to meet the mitigation obligations of Covered Species and most likely the majority of species determined to be sensitive pursuant to the CEQA review process. The City has adopted a policy that development should be directed outside of the MHPA and lands inside should be conserved. While this would result in the depletion (net loss) of the existing inventory of sensitive biological resources, the successful implementation of the MSCP would retain the long-term viability, and avoid further extirpation, of many of San Diego's sensitive species. Therefore, for upland habitats, measures that contribute towards overall implementation of the MSCP may be considered as mitigation, even when a net loss of the existing inventory of sensitive biological resources occurs. These methods, described below, allow for greater flexibility in mitigation methodology, including off-site acquisition, on-site preservation, habitat restoration and in limited cases, monetary compensation.

(1) Upland Impacts Within the MHPA (Outside the Coastal Overlay Zone). Where the MHPA covers more than 75 percent of a premise, development will be limited to that amount necessary to achieve a development area of 25 percent of the premise, based upon the development area regulations of the OR-1-2 zone (see **Section II.B.1**). No mitigation will be required for the direct impacts to uplands associated with this development area.

City linear utility projects (i.e. sewer and water pipelines) are exempt from the development area limitation but need to mitigate all direct impacts in accordance with **Table 3**. Likewise, all projects processed through a deviation would need to provide mitigation in accordance with **Table 3** for impacts beyond the allowable development area of the OR-1-2 Zone.

(2) Upland Impacts Outside of the MHPA (Outside the Coastal Overlay Zone). Where the MHPA covers less than 75 percent of a premises, no development will be allowed within the MHPA. Mitigation, based upon the ratios set forth in **Table 2**, will be required for all significant biological impacts. These ratios are based upon the rarity of the upland resources as characterized by one of four Habitat Tiers. Due to the critical nature and high biological value of the MHPA, mitigation should be directed to the MHPA. Thus, a lower mitigation ratio may be applied for projects that propose to mitigate inside of the MHPA. Lands outside the MHPA containing narrow endemic species will be treated as if the land was inside the MHPA for purposes of mitigation.

The mitigation requirement would be evaluated against any portion of the premise within the MHPA that is left undeveloped as a condition of the permit. If the portion of the premise containing the MHPA is equal to or greater than the mitigation requirement, then no further mitigation would be required. Any acreage of the mitigation requirement not satisfied on-site will be required to be mitigated off-site.

Thus, by way of example, if a project is impacting 60 acres of coastal sage scrub (Tier II) outside of the MHPA and preserving 40 acres of viable habitat on-site within the MHPA, then the remaining uncompensated acreage is 20 acres [60 ac – (1:1 x 40 ac) = 20 ac]. This would require the preservation of 20 acres (20 x 1:1) of mitigation within the MHPA, or 30 acres (20 X 1.5:1) outside (see **Figure 2**).

TABLE 3
UPLAND MITIGATION RATIOS

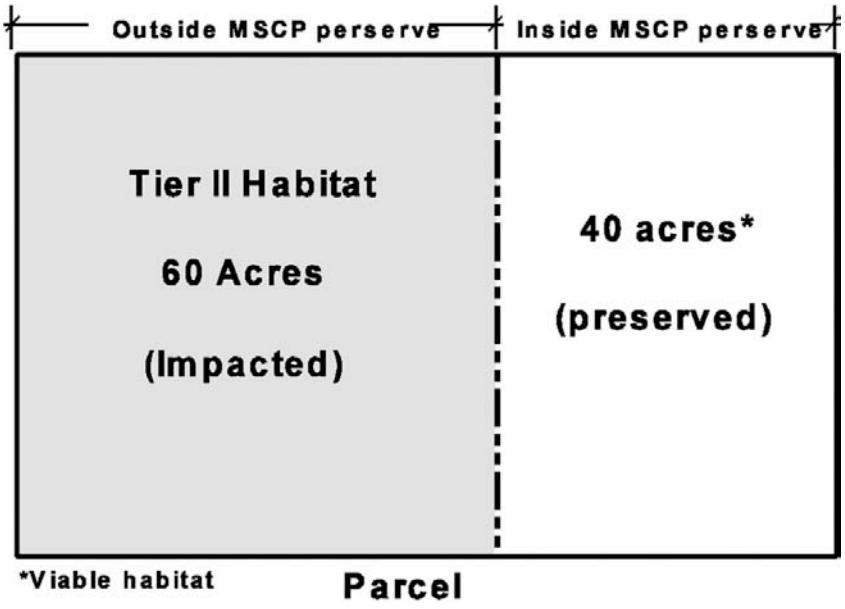
TIER	HABITAT TYPE	MITIGATION RATIOS		
TIER I (rare uplands)	Southern Foredunes Torrey Pines Forest Coastal Bluff Scrub Maritime Succulent Scrub Maritime Chaparral Native Grassland Oak Woodlands	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	2:1	3:1
		Outside	1:1	2:1
TIER II (uncommon uplands)	Coastal Sage Scrub (CSS) CSS/Chaparral	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	1:1	2:1
		Outside	1:1	1.5:1
TIER III A (common uplands)	Mixed Chaparral Chamise Chaparral	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	1:1	1.5:1
		Outside	0.5:1	1:1
TIER III B (common uplands)	Non-native Grasslands	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	1:1	1.5:1
		Outside	0.5:1	1:1
TIER IV (other uplands)	Disturbed Agriculture Eucalyptus	Location of Impact	Location of Preservation	
			Inside	Outside
		Inside*	0:1	0:1
		Outside	0:1	0:1

Notes: 1. For all Tier I impacts, the mitigation could (1) occur within the MHPA portion of Tier I (in Tier) or (2) occur outside of the MHPA within the affected habitat type (in-kind).

2. For impacts to Tier II, III A and III B habitats, the mitigation could (1) occur within the MHPA portion of Tiers I – III (out-of-kind) or (2) occur outside of the MHPA within the affected habitat type (in-kind).

* No mitigation would be required for impacts within the base development area (25 percent) occurring inside the MHPA. Mitigation for any impacts from development in excess of the 25 percent base development area for community plan public facilities or for projects processed through the deviation process would be required at the indicated ratios.

FIGURE 2
MITIGATION EXAMPLE



MITIGATION

1.. On-site preservation:
[60 acres – (1:1 x 40 acres)] = 20 acres **20 acres uncompensated**

2.. Off-site preservation:
(20 acres x 1:1) = 20 acres Inside MSCP Preserve

or

(20 ACRES X 1.5:1) = 30 ACRES OUTSIDE MSCP PRESERVE

Mitigation for all Tier I impacts must be in-tier, but may be out-of-kind. For impacts to Tier II, IIIA or IIIB habitats, the mitigation could (1) include any Tier I, II, IIIA or IIIB habitats (out-of-kind) within the MHPA, or (2) occur outside of the MHPA within the affected habitat type (in-kind).

Any outstanding mitigation may be satisfied by one, or a combination, of the following methods, or other methods that are determined on a case-by-case basis to reduce impacts to below a level-of-significance. *In all cases, mitigation sites must have long-term viability.* Viability will be assessed by the connectivity of the site to larger planned open space, surrounding land uses, and sensitivity of the MHPA resources to environmental change.

In general, areas within the MHPA are considered to have long-term viability. Areas outside of the MHPA proposed for mitigation may require additional biological studies to support the determination of long-term viability.

Mitigation Methods:

(a) Off-site Acquisition. The purchase or dedication of land with equal or greater habitat value can be considered as a method of mitigation. Impacts within the City of San Diego must be mitigated within the City of San Diego's jurisdiction, preferably in the MHPA.

"Mitigation Banks" are privately or publicly held lands that sell mitigation credits instead of fee title for habitat areas on which a conservation easement has been placed. Under this method, a large site can be acquired over time by multiple projects requiring small mitigation needs. Purchase of areas of "credits" from an established bank can be acceptable, as long as the required acreage is subtracted from the remaining credits in the bank and is not available for future projects. All banks must have provisions approved for long-term management, be part of a regional habitat preserve system and upon request provide an updated record of the areas (credits) purchased from the bank and those that are remaining.

New mitigation banks must be established pursuant to the "Official Policy on Conservation Banks" (California Resource Agencies 1995) and the "Supplemental Policy Regarding Conservation Banks within the NCCP Area of Southern California (USFWS 1996). In general, the purchase of credits from mitigation banks located outside of the City of San Diego's jurisdiction will not be allowed.

(b) On-Site Preservation. The following provides guidance for evaluating the acceptability of on-site preservation as mitigation with respect to the long-term viability of the site.

(1) Inside MHPA: For premises that straddle the MHPA, the on-site preservation of lands inside the MHPA, outside of brush management zones, are considered to have long-term viability due to their connectivity to larger planned open space and their contribution towards regional biodiversity preservation. Areas containing brush management Zone 2 will be considered impact neutral (not considered an impact and not considered acceptable as a mitigation area); see **Figure 3**.

Land inside the MHPA, outside of brush management zones, will be considered acceptable as mitigation and no additional studies to support this determination will be required.

[Note: Lands outside the MHPA containing narrow endemic species would be considered acceptable as mitigation and would be treated as if the land was inside the MHPA for purposes of mitigation.]

(2) Outside MHPA: The on-site preservation of lands outside the MHPA may be considered acceptable as mitigation provided they have long-term biological value. Long-term biological value should be assessed in terms of connectivity to larger areas of planned open space, and any potential current or future indirect impacts associated with the urban interface. As indicated above, areas containing brush management Zone 2 will be considered impact neutral (not considered an impact and not considered acceptable as a mitigation area).

(i) Connectivity: Isolated habitat patches have been shown to lack the diversity and resilience of connected systems (Noss 1983, Soule et al. 1988, Temple 1983, Wright and Hubbell 1983). In most cases, the species first to extirpate (disappear) from these isolated areas are rare species that do not adapt well to human influenced environments. Unfortunately, these species are those targeted for conservation by the MSCP.

Areas preserved on-site, but outside of the MHPA, will only generally be considered to be acceptable as mitigation if connected to the MHPA. As a general guideline, areas completely surrounded by development and areas connected by native vegetation of less than 400 feet wide for greater than 500 feet long will be considered isolated, and will not count as mitigation (see **Figure 4**).

Site-specific studies with field observations, which incorporate the best available scientific information and methods, would be necessary to provide a basis for any modification to these standards at the project level. Other factors such as topography (steep slopes), major road systems or other large public facility, and habitat patch size will also be considered in assessing potential isolation of a site.

Isolated areas may, on a case-by-case basis, be considered for use as mitigation where it can be reasonably demonstrated that the resource can persist in isolation (e.g. narrow endemics species or unique habitats such as vernal pools) or act as "stepping stones" for wildlife movement between portions of the MHPA.

FIGURE 3
URBAN INTERFACE

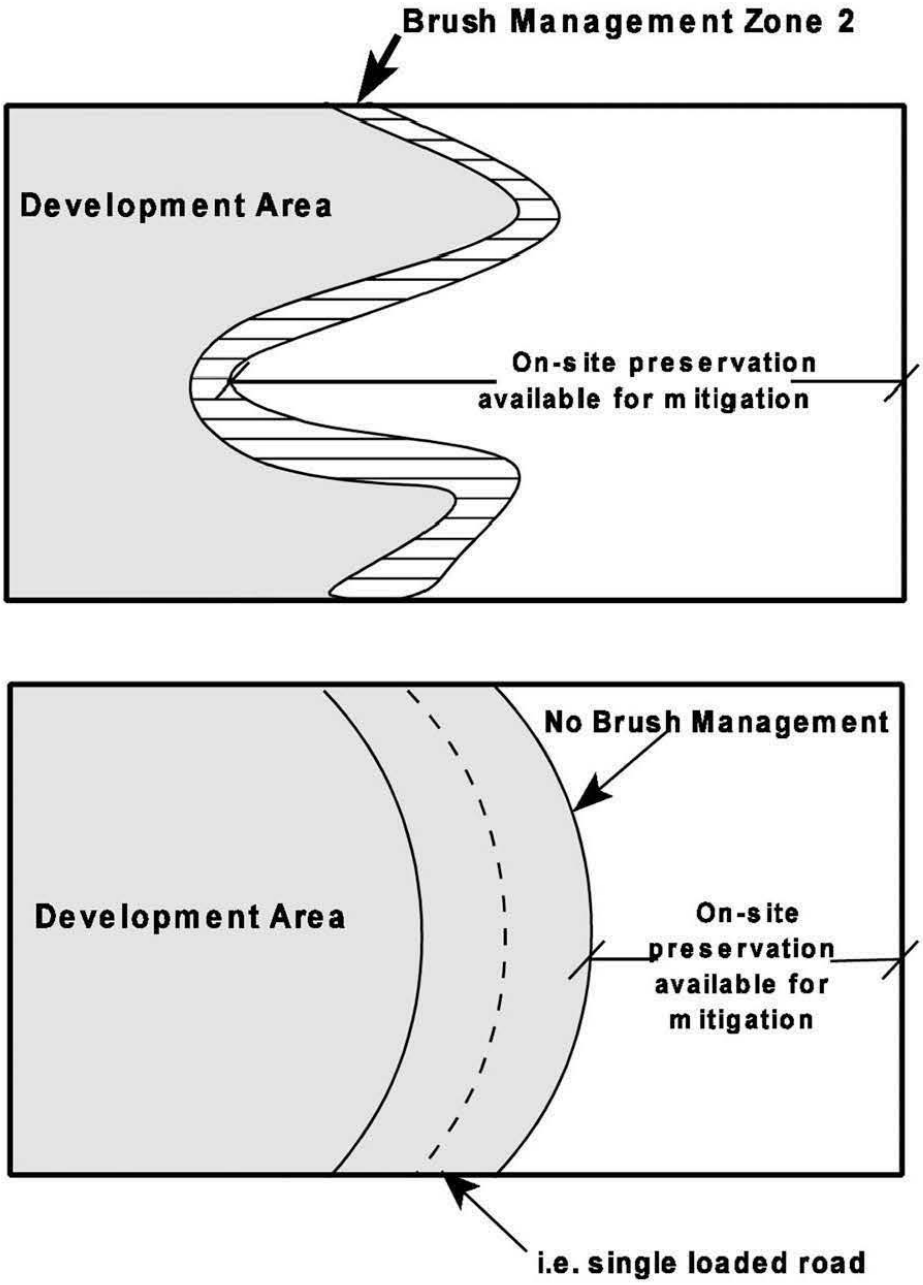
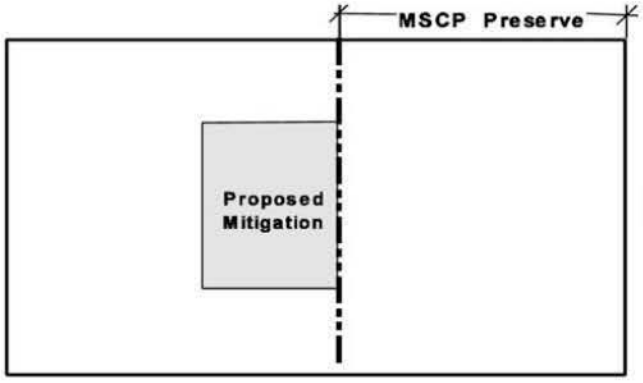
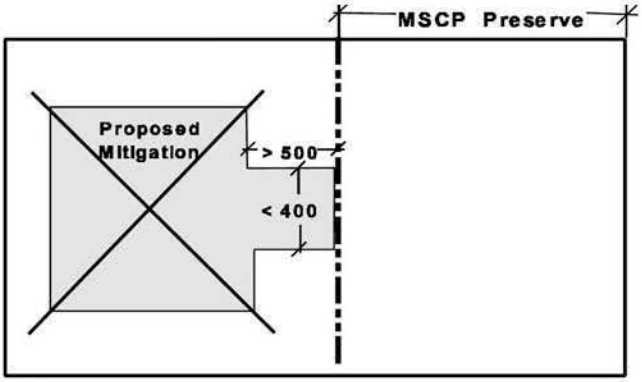


FIGURE 4
DETERMINATION OF CONNECTIVITY



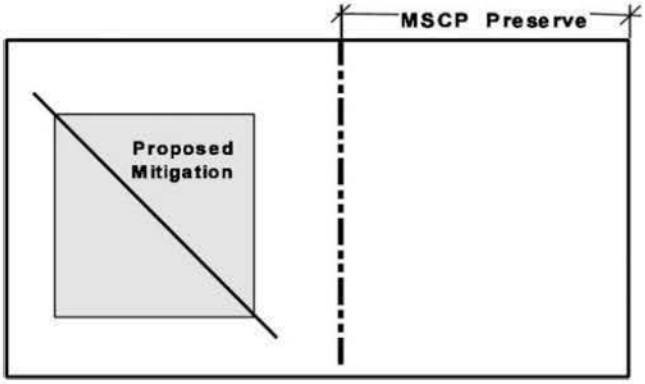
CONNECTED
Generally acceptable for mitigation



ISOLATED
Generally not acceptable as mitigation

Factors for consideration:

- **Size of habitat patch**
- **Species and habitat type**
- **Adjacent land uses**
- **Proximity to larger habitat patches**
- **Topography**



ISOLATED
Generally not acceptable as mitigation

Factors for consideration:

- **Size of habitat patch**
- **Species and habitat type**
- **Adjacent land uses**
- **Proximity to larger habitat patches**
- **Topography**

(ii) Urban Interface: The interface (edge) between native plant communities and human-modified areas are considered to be adverse to many native species. Many wildlife species decrease along the edge of habitat due to detrimental conditions, such as increased parasitism (by species such as the brown-headed cowbird), increased nest predation (by species such as jays, raccoons, opossums, and domestic cats and dogs), and increased competition for nesting areas (by starlings and other non-native (exotic) species) (Brettingham and Temple 1983, Gates and Gysel 1978, Noss 1993, Temple 1987). Invasion by exotic plants (such as escaped landscaping ornamental) and off-road vehicles also increases along habitat edges (Noss 1983, Alberts et al 1993, Sauvajot and Buechner 1993, Scott 1993). Other factors such as increased noise and night-time lighting may also contribute to the adverse conditions. These conditions are collectively called "edge effects".

Few studies have attempted to quantify the distance of edge effects. The MSCP Plan indicated that edge conditions range from 200 to 600 feet depending on adjacent land uses. A 1994 article on avian nest success indicates that the most conclusive studies suggest that edge effects are most predominately documented within fifty meters of an edge (Paton 1994).

Based on the site-specific analysis, edge-effect areas may be reduced depending on type of adjacent land use (e.g. golf course vs. residential) or if special development features are provided (e.g. single loaded streets, effective fencing, etc.).

Areas outside the MHPA with significant edge effects, as determined by the site-specific analysis, will generally not be considered acceptable as mitigation.

(c) Habitat Restoration: The restoration of degraded habitat may be considered as mitigation. Habitat restoration may include creation of habitat that was previously converted by human activities, and/or the enhancement of existing degraded habitat, where the proposed enhancement increases the habitat quality and biological function of the site.

Decompaction and revegetation of existing roads and trails, removal of exotic invasive species in conjunction with the establishment of native species, and the conversion of agricultural and disturbed lands back to native habitat are examples of acceptable restoration efforts. The removal of trash from a site does not constitute restoration in and of itself but may be a component of the restoration. Any area that will

continue to be subjected to periodic clearing (e.g. pipeline maintenance) would not be considered as mitigation. Areas proposed for restoration must contain the appropriate site conditions (e.g. hydrology, slope aspect, soils) for the proposed habitat.

All restoration will be required to have a restoration plan that outlines specific species for planting/hydroseeding, timing, irrigation and grading requirements, if any, a long-term maintenance, monitoring and reporting program, and criteria for success, as well as contingency measures in case of failure (see **Attachment B**). It is expected that monitoring of the restoration would be no less than five years, but could be completed earlier if the five year success criteria were met.

The restoration plan will establish appropriate monitoring and reporting periods. In general it is expected that quarterly reports will be prepared by the applicant's consultant for the first year and annual reports thereafter to document the status of the restoration effort until deemed complete by the City Manager or designee. These reports will identify any necessary remedial measures to be implemented by the applicant upon approval by the City.

A surety bond is required to assure implementation of all restoration efforts. The surety bond can be structured to return certain portions of the bond after demonstrating the successful completion of major restoration milestones (e.g. meeting the success criteria for year three). The restoration plan should clearly identify the milestones.

Further details on CEQA mitigation monitoring can be obtained from the City of San Diego Mitigation, Monitoring and Reporting Program.

(d) Monetary Compensation: In some cases, developments with small impacts may compensate by payment into a fund used to acquire, maintain and administer the preservation of sensitive biological resources. This fund is only intended to be used for the mitigation of impacts to small, isolated sites with lower long-term conservation value. For purposes of this fund, small is generally considered less than 5 acres, but could in some cases, be considered up to 10 acres.

Mitigation monies will be deposited in the City of San Diego's Habitat Acquisition Fund (Fund # 10571), as established by City Council Resolution R-275129, adopted on February 12, 1990.

Monetary compensation must also include an amount equal ten percent of the total for administrative costs.

Administration of the fund is the responsibility of the City of San Diego Planning and Development Review Department, with cooperation from other City Departments including: Parks and Recreation (for maintenance); Auditor (for accounting); and Real Estates Assets (for estimates of land cost). Staff costs will not be charged to the fund except to cover appraisal and administrative expenses (from the 10 percent administrative fee).

The process for utilizing this type of mitigation is as follows:

Staff members from the Planning and Development Review Department will request from the Real Estates Assets Department an estimate of average land costs of the focused acquisition area closest to the project site. Focused acquisition areas have been identified by the MSCP as large areas of habitat critical for biodiversity preservation and the success of the MSCP (e.g. Carmel Mountain, Del Mar Mesa, East Elliot, western Otay Mesa). The Real Estates Assets Department will base the estimate on previous appraisals and comparable land costs of lands within the focused acquisition area. The applicant will be required to contribute the estimated average per acre land cost multiplied by the mitigation ratio plus the additional amount for administration.

A two million dollar "cap" has been be placed on the amount of money that may accumulate in the Habitat Acquisition Fund. The purpose of this cap is to insure that funds are spent in a timely manner. After the cap has been reached, no other funds may be accepted until the money is expended.

(3) Upland Impacts Within the Coastal Overlay Zone: Within the Coastal Overlay Zone, encroachment into steep hillsides containing sensitive biological resources shall be avoided to the maximum extent possible, and permitted only when in conformance with the encroachment limitations set forth in Section **143.0142(a)(4)**. Mitigation for permitted impacts shall be required pursuant to **Section III.B.1.b(1)** and **(2)** above.

c. Species Specific Mitigation. In general, it is accepted that securing comparable habitat at the required ratio will mitigate for the direct impact to most sensitive species. While this is true for species with wide geographic distributions and/or large territory sizes, species with very limited geographic ranges (narrow endemic species) would require additional efforts designed to protect these species. A list of narrow endemic species is provided on page 4 of these Guidelines.

The specific actions necessary to protect narrow endemics must be determined on a case-by-case basis. Transplantation and/or soil salvage are examples of acceptable mitigation methods for some of these species. Fencing, signage and

management are other examples of mitigation. The Mitigation Program in the Biological Survey Report should identify all specific actions related to the mitigation of these narrow endemic species, in addition to any other requirements necessary for the mitigation of their habitats.

In addition to the protection of narrow endemics, certain species are only considered adequately conserved as part of the MSCP (i.e. covered species) if translocation/restoration of the species is provided at the project-level (See Table 3-5 of MSCP Plan and Section 1.3 of City's Subarea Plan). These species are *Ceanothus verrucosus* (wart-stemmed ceanothus), *Opuntia parryi var. serpentina* (snake cholla), *Speotyto cunicularia hypugaea* (burrowing owl), and restoration of any impacted habitat of the *Camylorhynchus brunneicapillus* (coastal cactus wren). The first three of these species are plants and may be transplanted, or incorporated into any revegetation plan proposed for the site. Translocation of burrowing owls should follow the passive relocation protocols as specified in the CDFG report on burrowing owls.

Species specific analysis for sensitive species not covered by the MSCP may be required as part of the CEQA process. It is expected that the majority of CEQA sensitive species not covered by the MSCP will be adequately mitigated through the habitat based mitigation described in **Section B.1.a** and **B.1.b** of these guidelines. A rare circumstance may arise, however, when mitigation actions specific to a particular species may be required. The project-level biological survey report will justify why such actions are necessary in light of the habitat level protection provided by the MSCP.

2. Protection and Notice Element. The Mitigation Program must provide assurances that areas offered for mitigation or remainder areas in the OR-1-2 zone not developed, but indirectly impacted by proposed development, will be adequately protected from future development. Additionally, adequate notice must be recorded against the title of the property to memorialize the status of mitigation and remainder areas. The Protection Element will identify the specific actions incorporated into the project to protect any areas offered as mitigation. The following methods are considered to adequately protect mitigation and remainder areas:

   a. Dedication: Dedication in fee title to the City is the preferred method of protecting mitigation areas. It is the City's Policy to accept lands being offered for dedication unless certain circumstances prohibit the acceptance, such as the presence of hazardous materials, title problems, unpaid taxes or unacceptable encumbrances including liens. The City Manager or designee must recommend, and the City Council must accept all proposed dedications on a case-by-case basis. Dedication of mitigation sites to other conservation entities, such as the U.S. Fish and Wildlife Service, Nature Conservancy, Trust for Public Lands, or the Environmental Trust, may also be permissible, if acceptable to the City Manager or designee.

b. Conservation Easement: In lieu of dedication in fee title, mitigation or remainder areas may be encumbered by a conservation easement. Conservation easements relinquish development rights to another entity. The conservation easement would be in the favor of the City (or other conservation entity, if acceptable to the City Manager or designee) with the U.S. Fish and Wildlife Service and the California Department of Fish and Game named as third party beneficiaries. The language of the easement would identify the mitigation or remainder area and provide that no clearing, grubbing, grading or disturbance of the native vegetation would be allowed within the area.

c. Covenant of Easement: In lieu of dedication in fee title or granting of a conservation easement, where a project has utilized all of its development area potential as allowed under the OR-1-2 zone, then as a condition of permit approval, a covenant of easement would be required to be recorded against the title of the property for the remainder area, with the U.S. Fish and Wildlife Service and the California Department of Fish and Game named as third party beneficiaries. A covenant of easement is a legally binding promise made by the property owner with respect to future use of the land. Identification of those permissible passive activities and any other conditions of the permit would be incorporated into the covenant. The covenant would be recorded against the title of the property and would run with the land. The applicant will allow the City limited right of entry to the remainder area to monitor the applicant's management of the area.

3. Management Element. The Mitigation Program must provide assurances that the mitigation or remainder areas in the OR-1-2 will be adequately managed and monitored in a manner consistent with Section 1.5 Preserve Management, of the City's MSCP Subarea Plan. The Mitigation Program should identify how the objectives of the City's MSCP Preserve Management recommendations will be met for the area, as well as provide any additional management recommendations resulting from site-specific information (area specific management directives). The plan must also identify the responsible entity and funding source for the long-term maintenance and management.

a. Management by the City: In general, the entity that holds the fee title or is granted a conservation easement, will be responsible for the management of the mitigation area. If the City of San Diego is the responsible party, then upon acceptance of the property, the area will be managed in accordance with the MSCP Habitat Management Plan as modified by the area specific management directives. The project applicant would not be responsible for future monitoring reports or maintenance activities.

In no case will the City be required to accept any brush management functions that are made a condition of a discretionary project. It is expected that a

homeowners association or similar group will be established for any brush management responsibilities.

b. Private Party Management: If the City does not hold fee title, or a conservation easement is not granted then the project applicant must provide for the management of the mitigation area. The Mitigation Program must include documentation on how the project would implement the objectives of the MSCP Preserve Management and the area specific management directives. The Mitigation Program must identify the responsible entity for long-term maintenance and management, the requirements for future management and monitoring reports, and a secure funding source to pay for the management in perpetuity.

THIS PAGE INTENTIONALLY LEFT BLANK.

SECTION IV: FINDINGS/DEVIATIONS

Development on a site containing sensitive biological resources requires the approval of a Neighborhood Development Permit or Site Development Permit, unless exempted from the requirement to obtain the permit pursuant to the Environmentally Sensitive Lands regulations. The required findings for a Neighborhood Development Permit or Site Development Permit are listed in the Land Development Code Section 126.0504. In addition to the general findings for a Neighborhood Development Permit or Site Development Permit, approval of a development on a site containing sensitive biological resources requires that five additional findings be made that are specific to the environmentally sensitive lands present these are also listed in Land Development Code **Section 126.0504**. Section A, below, discusses these additional five required findings, and what will be considered in making the findings.

In the Coastal Overlay Zone, a Coastal Development Permit will be required regardless of whether a Site Development Permit or Neighborhood Development Permit is required for all coastal development proposed within the Coastal Overlay Zone and which does not qualify for an exemption pursuant to **Section 126.0704**. Such coastal development is subject to the Environmentally Sensitive Lands Regulations as applicable within the Coastal Overlay Zone. The findings required in **Section 126.0708** must be made to assure conformance with the land use plans and implementation program of the certified Local Coastal Program.

Additionally, if a deviation from any of the Environmentally Sensitive Lands Regulations is requested, two more findings must be made in addition to the general Neighborhood Development Permit or Site Development Permit findings and the five additional findings for environmentally sensitive lands. These findings are listed in Land Development Code **Section 126.0504**. Section B identifies the two additional deviation findings and what will be considered in making the findings. Deviations from the Environmentally Sensitive Lands Regulations within the Coastal Overlay Zone shall be approved only after the decision maker makes an economically viable use determination and findings pursuant to **Section 126.0708(e)**.

A. Permit Findings for ESL (SDLDC Sec. 126.0504)

1. *The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;*

    - For projects in the OR-1-2 zone, the proposed development complies with the allowable development area regulations of the underlying zone (SDLDC **Section 131.0250** et seq).
    - For development that is proposed to occur within the MHPA, the proposed development is sited on the least sensitive portion of the site as pursuant to **Section II.A.2** of the Biology Guidelines.

2. *The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces, flood hazards and fire hazards;*

   [This finding is primarily applicable to sites that contain steep hillsides; refer to the **Steep Hillside Guidelines**]

3. *The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;*

   - For development that is proposed to occur within or adjacent to the MHPA, the proposed development conforms to the recommendations of the City's MSCP Plan, Section 1.4.3 Land Use Adjacency in regards to the treatment of the MHPA boundary (e.g. fencing, lighting, drainage).
   - The proposed project conforms with the requirements of the Biology Guidelines for the protection and management of any lands left undeveloped as a condition of the permit (**Section III.B.2** and **III.B.3**).

4. *The proposed development will be consistent with the City of San Diego MSCP Subarea Plan.*

   The proposed development will be consistent with the provisions of the City's Subarea Plan including but not limited to:

   - General and specific MHPA Guidelines of Section 1.2 (Description of Subarea),
   - Section 1.3 conditions for MSCP species coverage,
   - Section 1.4.1 Compatible Land Uses,
   - Section 1.4.2 General Planning Policies and Design,
   - Section 1.4.3 Land Use Adjacency Guidelines section, and
   - General and specific management recommendations of Section 1.5 Framework Management Plan.

5. *The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.*

   [This finding is applicable if the site contains sensitive coastal bluffs or coastal beaches; drainage from the site should not significantly impact these environmentally sensitive lands]

6. *The nature and extent of mitigation required as a condition of the permit is reasonably related to and calculated to alleviate negative impacts created by the proposed development.*

   - The proposed project has identified all potentially significant impacts pursuant to the *City of San Diego's Significance Determination Guidelines under the*

California Environmental Quality Act (City of San Diego 1994b), and has provided a Mitigation Program in conformance with the Biology Guidelines. Any departures from the mitigation standards of the Biology Guidelines have been both qualitatively and quantitatively supported by site-specific information presented in the Biological Survey Report.

B. Additional Development Permit Findings for Deviation from ESL

1. *There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.*

   - The proposed project has considered all alternatives (including avoidance) and all technically feasible mitigation and has either incorporated these measures into the project or has provided evidence for why the measures are infeasible. All projects with unmitigated impacts will need to provide CEQA Findings and a Statement of Overriding Considerations to the decision-maker.

2. *The proposed deviation is the minimum necessary to afford relief from special circumstance or conditions applicable to the land and not of the applicant's making.*

   - The deviation is only from those regulations necessary to make the project feasible. Alternative methods for achieving the goals of those regulations are presented by the project. The project has clearly demonstrated that further avoidance or minimization is infeasible, and that feasible mitigation has been provided.
   - Other regulations and guidelines for sensitive biological resources will be complied with so that the overall development design will conform to the intent of the Sensitive Biological Resources Regulations of the ESL, the intent of the OR-1-2 zone, the Biology Guidelines and the City's MSCP Subarea Plan, including the Habitat Management Plan.
   - Natural feature or conditions exist that make compliance with the regulations infeasible for a particular site. Affording relief should not be evaluated against the applicant's desired use of the site, but should reflect the existing development rights of the underlying zone.

     For example, if a site is completely covered by a narrow endemic species, leaving the site without development potential under the ESL, then the deviation process could be used to afford relief, per the underlying zone.

   Deviations may not be used solely to accommodate a development that clearly does not conform to the regulations when it appears feasible that measures could be incorporated to achieve compliance.

References Cited:

Alberts, A.C., A.D. Richman, D. Tran, R. Sauvajot, C. McCalvin, and D.T. Bolger. 1993. Effects of habitat fragmentation on native and exotic plants in Southern California. Pages 103-110 in J.E. Keeley (ed.), Interface between ecology and land development in California. Southern California Academy of Sciences, Los Angeles.

Brettingham, M.C. and S.A. Temple. 1983. Have cowbirds caused forest songbirds to decline? Bioscience 33:31-35.

California Resource Agencies. 1995. Official Policy on Conservation Banks.

CEQA Guidelines. 1994. Guidelines for Implementation of the California Environmental Quality Act. 1994, as amended.

City of San Diego. 1978. City of San Diego guidelines for conducting biological surveys. September 1978.

City of San Diego. 1993. City of San Diego Mitigation, Monitoring and Reporting Program. July 1993.

City of San Diego. 1994a. Addendum to City of San Diego guidelines for conducting biological surveys. April 1994.

City of San Diego. 1994b. City of San Diego significance determination guidelines under the California Environmental Quality Act. January 1994, rev.

City of San Diego. 1995. Multiple Species Conservation Program Subarea Plan. (Draft) August. 1995.

Gates, J.E. and L.W. Gysel. 1978. Avian nest dispersion and fledgling success in field forest ecosystems. Ecology 59:871-883.

Harris, L.D. 1988. Edge effects and conservation of biodiversity. Conservation Biology. 2:330-332.

Holland, R.F. 1986. Preliminary descriptions of terrestrial natural communities of California. California Department of Fish and Game, Non-game Heritage Program, Sacramento. 146 pp.

MacClintock, L.; Whitcomb, R.F.; Whitcomb, B.L. 1977. Evidence for the value of corridors and minimization of isolation in preservation of biotic diversity. American Birds. 31(1):6-12.

Noss, R.F. 1983. A regional landscape approach to maintain diversity. Bioscience. 33:700-706.

Oberbauer, T. 1992. Terrestrial vegetation communities in San Diego County based on Holland's description. May 28.

Paton, P.W. 1994. The Effects of Edge on Avian Nest Success: How Strong is the Evidence? Conservation Biology. 8:17-26.

Sauvajot, R. and M. Buechner. 1993. Effects of urban encroachment on wildlife in the Santa Monica Mountains. Pages 171-180 in J.E. Keeley (ed.), Interface between ecology and land development in California. Southern California Academy of Sciences, Los Angeles.

Scott, T.A. 1993. Initial effects of housing construction on woodland birds along the wildland urban interface. Pages 181-198 in J.E. Keeley (ed.), Interface between ecology and land development in California. Southern California Academy of Sciences, Los Angeles.

Soule, M.E., D.T. Bolger, A.C. Alberts, R. Sauvajot, J., Wright, M. Sorice, and S. Hill. 1988. Reconstructed Dynamics of Rapid Extinction of Chaparral-Requiring Birds in Urban Habitat Islands. Conservation Biology. 1:75-92.

Temple, S.A. 1983. Area-dependent changes in the bird distribution and vegetation of southern Wisconsin forests. Ecology. 64:1057-1068.

Temple, S.A. 1987. Predation of turtle nests increases near ecological edges. Copeia. 1987:250-252.

USACOE. 1986. Corps of Engineers Regulatory Program Regulation. Federal Register Vol. 51, No. 219. 33 Code of Federal Regulations.

USACOE. 1987. Corps of Engineers Wetland Delineation Manual.

U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG). 1996. Supplemental Policy Regarding Conservation Banks within the NCCP Area of Southern California.

Wright, S.J. and S.P. Hubbell. 1983. Stochastic extinction and reserve size: a focal species approach. Oikos. 41:466-476.

THIS PAGE INTENTIONALLY LEFT BLANK.

ATTACHMENT "A"
FLORA AND FAUNA COVERED BY THE
MULTIPLE SPECIES CONSERVATION PROGRAM

SCIENTIFIC NAME	COMMON NAME	DESIGNATION (FS/CNPS/RED)
Flora:		
Acanthomintha ilicifolia	San Diego thormint	PE/SE/1B/232
Agave shawii	Shaw's agave	--/--/ 2/333
Ambrosia pumila	San Diego ambrosia	--/--/ 1B/322
Aphanisma blitoides	Aphanisma	--/S2/ 3/222
Arctostaplylos glandulosa var. crassifolia	Del Mar manzanita	FE--/1B/332
Arctostaphylos otavensis	Otay Manzanita	--/--/1B/323
Astragalus tener var. titi	Coastal dunes milk vetch	F1/SE/1B/333
Baccharis vanessae	Encinitas Coyote brush	FE/SE/1B/333
Berberis nevinii	Nevin's barberry	F1/SE/1B/333
Brodiaea filifolia	Thread-leafed brodiaea	PT/SE/1B/333
Brodisea occuttii	Orcutt's brodiaea	--/--/1B/132
Calamagrostis koelerioide	Dense reed grass	F3c/--/4/122
Calochortus dunnii	Dunn's mariposa lily	--/SR1B222
Caulanthus stenocarpus	Slender-pod jewel flower	--/SR/--/--
Ceanothus cyaneus	Lakeside ceantothus	--/--/1B/322
Ceanothus verrucosus	Wart-stemmed ceanothus	--/--/2/121
Cordvlanthus maritimus ssp. maritimus	Salt marsh bird's-beak	FE/SE/1B/222
Cordylanthus orcuttianus	Orcutt's bird's-beak	--/--/2/331
Corethyrogyre filaginiogolia var. linifolia	Del Mar sand aster	--/--/1B/323
Cupressus forbesii	Tecate cypress	--/--/1B/322
Dudleya blochmaniae ssp. brevifolia	Short-leaved live-forever	--/SE/1B/333
Dudleya variegata	Variegated dudleya	--/--/ 4/122
Dudleya viscida	Sticky dudleya	F1/--/1B/323
Ericameria palmeri ssp. palmeri	Palmer's ericameria	--/--/ 2/221
Erysimum ammophilum	Coast wallflower	--/--/ 4/123
Eryngium aristulatum ssp. parishii	San Diego button-celery	FE/SE/1B/232
Ferocactus viridescens	San Diego barrel cactus	--/--/ 2/131
Hemizonia conjugens	Otay tarplant	PE/SE/1B/232
Lepechinia cardiophylla	Heart-leaved pitcher sage	--/--/1B/322
Lepechinia ganderi	Gander's pitcher sage	--/--/1B/312
Lotus nuttallianus	Nuttall's lotus	--/--/1B/332

SCIENTIFIC NAME	COMMON NAME	DESIGNATION (FS/CNPS/RED)
Monardella hypoleuca ssp. lanata	Felt-leaved monardella	--/--/1B/223
Monardella linoides ssp. viminea	Willowy monardella	PE/SE/1B/232
Muilla clevelandii	San Diego goldenstar	--/--/1B/222
Navarretia fossalia	Prostrate navarretia	--/--/1B/232
Nolina interra	Dehesa bear-grass	F1/SE/1B/332
opuntia parryi var. Serpentina	Snake cholla	--/--/1B/332
Orcuttia californica	California Orcutt grass	FE/SE/1B/332
Poqoqyne abramsii	San Diego mesa mint	FE/SE/1B/233
Poqoqyne nudiuscula	Otay Mesa mint	FE/SE/1B/332
Pinus torreyana ssp. torreyana	Torrey pine (native populations)	--/--/1B/323
Rosa minutifolia	Small-leaved rose	--/SE/ 2/331
Satureja chandleri	San Miguel savory	F3c/--/4/122
Senecio ganderi	Gander's butterweed	--/SR/1B/232
Solanum tenuilobatum	Narrow-leaved nightshade	--/--/--/---
Tetracoccus dioicus	Parry's tetracoccus	--/--/1B/322
Fauna:		
Panoquina errans	Saltmarsh skipper	--/--
Mitoura thornei	Thorne's harstreak	--/S2
Branchinecta sandiegoensis	San Diego fairy shrimp	FE/--
Streptocephalus woottoni	Riverside fairy shrimp	FE/--
Bufo microscanphus ssp. californicus	Arroyo southwestern toad	FE/SSC
Rana aurora ssp. Draytoni	California red-legged frog	FT/SSC
Clemmys marmorata ssp. Pallida	Southwestern pond turtle	--/SSC
Cnemidophorus hyperythrus ssp. beldingi	Orange-throated whiptail	--/SSC
Phyrnosoma coronatum ssp. blainvillei	San Diego horned lizard	--/SSC
Accipiter cooperii	Cooper's hawk	--/SSC
Agelaius tricolor	Tricolored blackbird	--/SSC
Aguila chrysaetos	Golden eagle	--/SSC
Aimophila ruficeps ssp. canescens	Southern california rufous crowned sparrow	--/SSC
Branta canadensis ssp. Moffitti	Canada goose	--/--
Buteo swainsoni	Swainson's hawk	--/CT
Buteo regalis	Ferruginous hawk	--/SSC
Campylorhynchus brunneicapillus ssp. Couesi	Coastal cactus wren	--/SSC
Charadrius alexandrinus ssp. nivosus	Western snowy plover	FT/SSC
Charadrius montanus	Mountain plover	--/SSC

SCIENTIFIC NAME	COMMON NAME	DESIGNATION (FS/CNPS/RED)
Circus cyaneus	Northern harrier	--/SSC
Egretta rufescens	Reddish egret	--/--
Empidonax traillii ssp. extimus	SW. Willow flycatcher	FE/SE
Falco peregrinus anatum	American peregrine falcon	--/ST
Haliaeetus leucocephalus	Bald eagle	FE/SE
Numenius americanus	Long-billed curlew	F3c/SSC
Passerculus sandwichensis ssp. beldingi	Belding's savannah sparrow	--/SE
Passerculus sandwichensis	Large-billed savannah sparrow	--/SSC
Palcanus occidentalis ssp. californicus	California brown pelican	FE/SE
Plegadis chihi	White-faced ibis	--/SSC
Polioptila californica ssp californica	California gnatcatcher	FT/SSC
Rallus longirostris ssp. levipes	Light-footed clapper rail	FE/SE
Sialia mexicana	Western bluebird	--/--
Speotyto (Athene) cunicularia ssp. hypugaea	Western burrowing owl	--/SSC
Sterna elegans	Elegant tern	--/SSC
Sterna antillarum ssp. browni	California least tern	FE/SE
Vireo bellii ssp. pusillus	Least Bell's vireo	FE/SE
Taxidea taxus	American badger	--/SSC
Felis concolor	Mountain lion	--/--
Odocoileus hemionus fuliginata	Southern mule deer	--/--

Federal Listing
State of California Listing
CNPS - California native Plant Society's (CNPS) List.
RED - CNPS's Rarity, Endangerment and Distribution Code

THIS PAGE INTENTIONALLY LEFT BLANK.

ATTACHMENT "B"
GENERAL OUTLINE FOR REVEGETATION/RESTORATION PLANS

Introduction
- Background and project location(s) (with maps)
- Project Purpose & Restoration Goal(s) and Objectives

Existing Conditions
- Environmental setting/vegetation & wildlife of affected/ impacted area(s) [can be in intro]
- Environmental setting, ownership, land uses of area to be revegetated (figures/maps)
- Description/evaluation of vegetation, soil, hydrology/drainage conditions, topography, constraints (topo maps)
- Reference Site(s) for development of specifications, and for monitoring use.

Responsibilities
- Financial Responsibility
- Revegetation Team:
  - Project Biologist (include training of contractors, as needed)
  - Monitor, if different
  - Landscape/Reveg/Maintenance Contractor(s)
  - Seed/plant collection/procurement contracting

Site Preparation
- Removal of debris, if necessary
- Land shaping/grading and drainage plan, if needed
- Topsoil/brush & propagule salvage and translocation plan, if needed
- Weed Eradication
- Soil Preparation

Planting Specifications
- Seed sources and procurement
- Seed Mixes/Container plant lists (lbs/ac)
- Planting Design (include timing/schedule, planting plan)
- Seed application methods (imprinting, hydroseed or mulch, hand broadcasting, etc.)
- Irrigation

Maintenance
- Site Protection (fencing, signage)
- Weed Control (methods, schedule)
- Horticultural Treatments (pruning, leaf litter, mulching, removal of diseased plants)
- Erosion Control
- Replacement plantings and reseeding
- Vandalism
- Irrigation maintenance, if needed

Monitoring and Success Assessment
- Monitoring & Reporting Schedules
- Performance Standards
- Monitoring procedures
  - horticultural (seeding and plant assessments)
  - biological, including sampling methods
- Reporting program

Remediation and Contingency Measures

Performance Bond

Notification of Completion